



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

MGE/171925

PRELIMINARY RECITALS

Pursuant to a petition filed February 03, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on April 12, 2016, at Madison, Wisconsin. A hearing set for March 16, 2016, was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined the amount of the petitioner's Institutional MA patient liability.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Stephanie Kuo, ES Spec.
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County.

2. The petitioner applied for Long-Term Care/Institutional MA on January 7, 2016. On January 15, 2016, the Department issued written notice to the petitioner advising that he was eligible with a patient liability amount of \$696 monthly from February 1, 2016 forward. Although the notice stated that the petitioner would have a higher patient liability for January, the agency later corrected this, and the January 2016 patient liability amount is also \$696.00.
3. The petitioner's gross income consists of \$741 in Social Security.
4. In calculating the petitioner's patient liability, the agency subtracted the statutory \$45 personal needs allowance from gross income. The difference of \$696.00 was the patient liability. The unpaid nursing home bill above the \$696 patient liability amount is then paid for by Medicaid.

DISCUSSION

After an institutionalized person is determined eligible for MA, a county agency must calculate the amount of income the institutionalized person must contribute toward the cost of care incurred by MA on his/her behalf on a monthly basis. This is referred to as the person's "patient liability." The calculation begins with gross income, and only a few items may be subtracted as deductions. These include the statutory \$45 personal deduction, a health insurance expense deduction and, in some cases, a home maintenance deduction. Wis. Admin. Code §DHS 103.07(1)(d), and the federal rule at 42 C.F.R. §435.725 - .832. The formula for calculating the patient liability amount is set out at *Medicaid Eligibility Handbook (MEH)*, §27.7.1, found online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

The petitioner does not contest his \$741 gross income amount. Prior to admission he was homeless, so there is no home maintenance deduction. He did not testify that he was paying for health insurance other than Medicaid. He asserts that he cannot survive financially with the \$696 patient liability because he (1) has old debts to pay, and (2) he has been buying food because the nursing home does not feed him for days at a time. I did not find the second assertion to be believable. The agency cites its *MEH* instructions, which advise that gross income must be counted. *See, MEH*, §§ 15.1, 15.4, 27.5.2.

The controlling federal MA rule directs that agency to begin with gross income. It then contains instructions, which allow for several specific deductions for a nursing home patient, none of which were testified to by this petitioner. 42 C.F.R. § 435.832 (May 2015). There is no stated deduction for old debts. Nothing in the rule language persuades me that the agency has erred here. Past decisions of this office have reached the same conclusion. *See*, DHA Decision Nos. MED-67/79919 (November 24, 2006); MED-40/86088 (October 16, 2007); MED-40/91300 (May 5, 2008).

CONCLUSIONS OF LAW

1. The county agency correctly calculated the petitioner's patient liability amounts pursuant to his January 2016 application.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 15th day of April, 2016

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on April 15, 2016.

Dane County Department of Human Services
Division of Health Care Access and Accountability